



STATE OF INDIANA

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ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” *See Indiana Code § 5-14-3-1*. The Fort Wayne Police Department is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the FWPD’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

This Office has stated on several occasions that a public agency does not have to produce records which do not exist. Whether the records actually exist or not is a matter of fact for the Courts to decide. Testimony as to its existence should be obtained through the trial discovery phase of a criminal or civil proceeding and is not ripe for a formal complaint to this Office.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Fort Wayne Police Department did not violate the Access to Public Records Act.

Luke H. Britt

A handwritten signature in black ink, appearing to read "L. H. Britt", written in a cursive style.

Public Access Counselor

Cc: Ms. Malak Heiny, Esq.